

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**James F. Robertson,**

Petitioner-Appellant,

**v.**

**City of Cedar Rapids Board of Review,**

Respondent-Appellee.

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**ORDER**

**Docket No. 10-101-0312  
Parcel No. 14172-51008-00000**

On April 25, 2011, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant James F. Robertson was self-represented and although he requested a hearing, he did not appear. The Black Hawk County Board of Review designated City Attorney James H. Flitz as its legal representative. Deputy Assessor Thomas Lee appeared on behalf of the Board of Review at hearing. The Appeal Board having reviewed the record and being fully advised, finds:

***Findings of Fact***

James F. Robertson is the owner of a residentially classified, single-family residence located at 2255 16th Street NW, Cedar Rapids, Iowa. The property is a one-story home, built in 1996, and has 1721 square feet of total above-grade living area. The property has a 1688 square-foot basement, with 616 square feet of that area allocated as a two-car, built-in garage. There is also a 360 square-foot detached garage, built in 1940, and listed in "very poor" condition. Additionally, there is an 88 square-foot rear deck, and a 211 square-foot front deck. The site is 0.443 acres.

Robertson protested to the Board of Review regarding the 2010 reassessment allocated as follows: \$27,904 in land value and \$131,922 in improvement value for a total assessment of \$159,826. This was a change from the previous year's assessment.

Robertson's claim was based on a single ground: that there has been a change in the value since the last assessment under Iowa Code sections 441.37(1) and 441.35(3). In a reassessment year, a challenge based on downward change in value is akin to a market value claim. *See Dedham Co-op. Ass'n v. Carroll County Bd. of Review*, 2006 WL 1750300 (Iowa Ct. App. 2006). Accordingly, we do not consider downward change but rather consider only the claim of over-assessment. Robertson did not have any attachments to his petition. He requested a hearing before the Board of Review; however it is unclear if anything in the certified record was offered by Robertson in support of his claim.

The Board of Review denied the petition.

Robertson then appealed to this Board reasserting his claim. On his appeal form, Robertson asserts the correct value of his property is \$151,000. He also added a claim based on the ground that the assessment is not equitable as compared with assessments of other like property in the taxing district under section 441.37(1)(a). He plainly states "this assessment is not comparable to neighborhood." This ground was not pled to the Board of Review and, as such, we have no jurisdiction to consider it. We will only consider the claim that the property is assessed for more than authorized by law.

Robertson did not provide any additional information to support his claim.

The Board of Review provided evidence regarding market appreciation that has occurred over a three-year period in the city of Cedar Rapids and in the NW quadrant. The trend analysis is between January 1, 2007 to January 1, 2009. It claims the data indicates a median market appreciation of 0.22% per month for the entire City of Cedar Rapids; and a median monthly appreciation of 0.16% per

month for the NW quadrant. While this analysis is reasonably detailed and indicates an overall increase it is not specific to the subject's neighborhood or to the subject property.

The Board of Review, however, did look at the subject's neighborhood using the sale price on a dollar per square foot basis, as a unit of comparison. The results of its analysis indicate an increase of \$6.70 per square foot, or a 5.64% increase from 2007 to 2009 for the immediate area. While we recognize this analysis is more specific to the subject's immediate neighborhood, and certainly indicates an overall upward trend, it still does not address the subject property and its value as of January 1, 2010.

Lastly, the Board of Review offered four properties for equity comparison. However, because equity is not a claim before this Board we will not consider the analysis.

The Board of Review provided evidence of an increasing market ranging from the entire City of Cedar Rapids, to the NW quadrant, and finally narrowed to the subject's neighborhood. However, there was no evidence presented about the value of the subject property. Robertson offered no evidence to support his claim.

Based on the foregoing, we find insufficient evidence has been presented to demonstrate the subject property is assessed for more than authorized by law.

### ***Conclusions of Law***

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only

those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Robertson failed to provide sufficient information to support his claim of over-assessment.

We therefore affirm the assessment of James F. Robertson's property as determined by the City of Cedar Rapids Board of Review as of January 1, 2010.

THE APPEAL BOARD ORDERS the assessment of James F. Robertson's property located at 2255 16th Street, NW, Cedar Rapids, Iowa, of \$159,826 as of January 1, 2010, set by the City of Cedar Rapids Board of Review, is affirmed.

Dated this 27 day of May, 2011

  
Karen Oberman, Presiding Officer

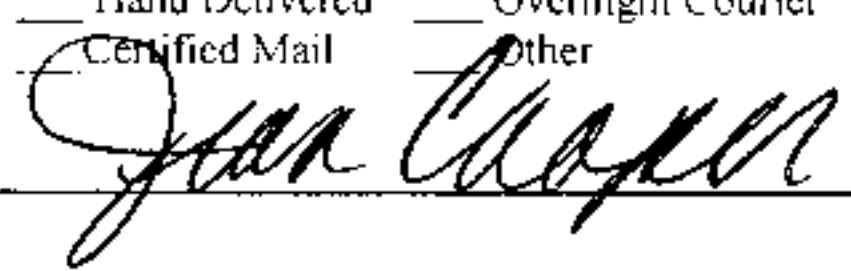
  
Richard Stradley, Board Chair

  
Jacqueline Rypma, Board Member

Cc:

James F. Robertson  
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APPELLANT

James H. Flitz  
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| Certificate of Service  |   |
| The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>5-27</u> , 2011 |   |
| By:   | <input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX            |
|   | <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier    |
|   | <input type="checkbox"/> Certified Mail <input type="checkbox"/> Other                |
| Signature   |  |